

REMARKS

Claims 1-13 are currently pending in the subject application. Claims 6-8, 11, and 12 have been withdrawn from consideration. Claim 1 has been amended herein in order to more particularly point out and distinctly claim subject matter. The Applicants respectfully submit that no new matter has been added. It is believed that this paper is fully responsive to the Office Action dated August 17, 2010.

1. The Examiner has objected to Figure 9.

The Examiner has objected to Figure 9 and has indicated that such drawing should be designated by a label such as “Prior Art” because only that which is old is illustrated.

Applicants respectfully traverse this objection, for the following reasons.

It is noted that the term “Prior Art” is specifically defined by 35 U.S.C. §§ 102 and 103. There exist numerous exceptions such that “that which is old” may or may not be “Prior Art” within the meaning of 35 U.S.C. §§ 102 and 103. For example, when a drawing discloses an Applicants’ unpublished work, the label “Related Art” can be more appropriate than the label “Prior Art.”

The Examiner has not yet demonstrated that Figure 9 satisfies any of the criteria required by 35 U.S.C. §§ 102 and 103. For example, in the objection to Figure 9, the Examiner did not

cite a printed publication describing Figure 9 more than one year prior to the date afforded the subject application.

Some art may be prior art to one inventive entity, but not to the public in general. This is the case when an inventor has made an improvement on his or her own prior invention. An inventor's own foundational work should not be treated as Prior Art solely because knowledge of this work is admitted, unless there is a statutory bar.

"Certain art may be prior art to one inventive entity, but not to the public in general." *In re Fout*, 213 USPQ 532, 535 (CCPA 1982).

In the subject application, Figure 9 is not explicitly described using this term: "Prior Art." Figure 9 is described in the section entitled "Background of the Invention," and is described as showing a general method of manufacturing (page 1, lines 23-25). Figure 9 is also identified as depicting a conventional manufacturing step diagram of a solar battery (page 11, lines 5-6). The terms "background," "general," and "conventional" are not the same as the term "prior art."

There is neither suggestion nor teaching in the U.S. patent statutes or in Applicants' application that "Prior Art" is synonymous in breadth and scope with "conventional." In other words, a particular structure may be in fact "conventional" and, through an absence of one or more of the conditions prerequisite under 35 U.S.C. §§ 102 and 103, may not qualify as "Prior Art."

The knowledge of the inventors should not be treated as "Prior Art" solely because the inventors admitted knowledge of the work, unless there is a statutory bar. The Examiner has not demonstrated that there is a statutory bar, regarding Figure 9.

Accordingly, in view of the above remarks, Applicants respectfully submit that this objection is improper and should be withdrawn.

2. The Examiner has rejected claims 1-5 and 9-13 under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 has been amended herein in a manner intended to overcome this rejection of claims 1-5 and 9-13.

Accordingly, in view of the above remarks and amendments, Applicants respectfully submit that this rejection should be withdrawn.

3. The Examiner has rejected claims 1, 9, and 10 under 35 U.S.C. §102(b) as being anticipated by Applicant's Admitted Prior Art (AAPA).

Applicants respectfully traverse this rejection, for the following reasons.

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In the subject application, Figure 9 is not explicitly described using this term: "Prior Art."

In view of the above remarks, Figure 9 does not constitute "Applicant's Admitted Prior Art."

Accordingly, Applicants respectfully submit that this rejection of claims 1, 9, and 10 is improper and should be withdrawn.

4. The Examiner has rejected claims 2-5 under 35 U.S.C. §103(a) as being unpatentable over AAPA as applied to claim 1 above.

Applicants respectfully traverse this rejection, for the following reasons.

In the subject application, Figure 9 is not explicitly described using the term: "Prior Art."

In view of the above, Figure 9 does not constitute "Applicant's Admitted Prior Art."

Accordingly, Applicants respectfully submit that this rejection of claims 2-5 is improper and should be withdrawn.

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5. The Examiner has rejected claim 13 under 35 U.S.C. §103(a) as being unpatentable over AAPA as applied to claim 1 above, and further in view of US Patent No. 5,074,920 (Gonsiorawski) and JP 2003-168811 (Tanaka).

Applicants respectfully traverse this rejection, for the following reasons.

In the subject application, Figure 9 is not explicitly described using the term: "Prior Art."

In view of the above, Figure 9 does not constitute "Applicant's Admitted Prior Art."

Accordingly, Applicants respectfully submit that this rejection of claim 13 is improper and should be withdrawn.

6. The Examiner has rejected claims 1-5, 9, 10, and 13 on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-22 of U.S. Patent No. 7,754,962 (Okamoto '962) in view of AAPA.

Applicants respectfully traverse this rejection, for the following reasons.

In the subject application, Figure 9 is not explicitly described using the term: "Prior Art."

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In view of the above, Applicants respectfully submit that Figure 9 does not constitute "Applicant's Admitted Prior Art."

Accordingly, Applicants respectfully submit that this rejection of claims 1-5, 9, 10, and 13 is improper and should be withdrawn.

If, for any reason, it is felt that this application is not now in condition for allowance, the Examiner is requested to contact the Applicants' undersigned attorney at the telephone number indicated below to arrange for an interview to expedite the disposition of this case.

In the event that this paper is not timely filed, the Applicants respectfully petition for an appropriate extension of time. Please charge any fees for such an extension of time and any other fees which may be due with respect to this paper, to Deposit Account No. 01-2340.

Respectfully submitted,

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